

REMARKS/ARGUMENTS

The present amendment is submitted in an earnest effort to advance the case to issue without delay.

Claim 1 has been amended by incorporating the elements of pending claims 11, 16, 17 and 18. The aforementioned dependent claims have been canceled. It is believed that this amendment is as of right.

Claims 1, 2, 4-8, 10 and 14 were rejected under 35 U.S.C. § 102(e) as anticipated by Burghaus et al. (US Patent 6,605,342). Applicant traverses this rejection.

By the Examiner's implied admission, Burghaus et al. is at least non-anticipatory of pending claims 11 and 16-18.

Claim 15 was rejected under 35 U.S.C. § 103(a) as unpatentable over Burghaus et al. Applicant traverses this rejection.

Burghaus et al. does not specifically mention any of the plastic materials itemized under claim 15. Although the enumerated materials have been utilized in the art as closure construction polymers, those skilled in the art would not necessarily have chosen any of these for the specific use in connection with closures of the present invention fitted with a label covering, particularly an in-mold label covering.

Claim 9 was rejected under 35 U.S.C. § 103(a) as unpatentable over Burghaus et al. Applicant traverses this rejection.

Claim 9 is dependent through claim 1. Various aspects of claim 1 have not been revealed by this reference. These aspects include the specified thickness, the specified Shore hardness range to provide a specific degree of soft feel, the different color between the label covering and the ceiling, and the in-mold nature of the label covering. For these reasons, those skilled in the art would not obviously arrive at the present invention through consideration of the primary reference.

Claim 16 was rejected under 35 U.S.C. § 103(a) as unpatentable over Burghaus et al. Applicant traverses this rejection.

Burghaus et al. as admitted by the Examiner does not teach a closure with a label covering that is of a different color than the closure ceiling.

Independent claim 1 specifies that the label covering comprise at least two separate labels. Figure 2 is illustrative of the separate labels arrangement. Areas on the peripheral skirt 12 are alternately covered with gripping areas 18 and non-gripping areas 16. The latter being a part of the underlying closure often will have a color and be of an identical material as that of the ceiling. By having the label areas 18 of a different color from other areas of the peripheral skirt (and of the ceiling), a person removing the cap will appreciate visually and through feel the presence of the soft gripping areas. Absent a plurality of label segments, the label covering would not be as aesthetically prominent. The color cue and differential feel between soft and hard closure areas reinforce the aesthetic and functional concept.

Claim 18 was rejected under 35 U.S.C. § 103(a) as unpatentable over Burghaus et al. Applicant traverses this rejection.

Selection of a Shore A or Shore D hardness of the 35-80 range insures a feel of some softness but still retains some rigidity. The aesthetic difference is noticed yet there is sufficient hardness to provide an optimum grippability. Burghaus does not appreciate the need for a compromise between the material feel and the grippability.

Claim 11 was rejected under 35 U.S.C. § 103(a) as unpatentable over Burghaus et al. in view of Baar (US Patent 2,394,135). Applicant traverses this rejection.

The Examiner has identified Figures 7 and 8 of Baar as most relevant. There is shown a container closure with a multiplicity of spaced recesses 13a. Within these recesses are placed inserts 17a. See page 2, lines 28-34 (left column). There is no disclosure that the inserts 17a are labels of a label covering. Neither is there any disclosure that the inserts have a thickness from about 2 to about 12 mils. Since Burghaus et al. is concerned with the application of a plastic label, those skilled in the art would not be led to the "inserts" of Baar. Neither would an in-mold label be obvious for substitution with inserts 17a.

Claim 17 was rejected under 35 U.S.C. § 103(a) as unpatentable over Foulkes (US Patent 5,868,986). Applicant traverses this rejection.

Foulkes was cited for showing in-mold labels on polymeric articles. Yet unlike the present invention, Foulkes does not disclose the use of such labels in the context of a closure. Those skilled in the art seeking to provide a gripping surface would not consider an in-mold label as functionable for a gripping area. The in-mold labels of Foulkes are disclosed for the function of supporting printing rather than for gripping. See column 1, lines 41 and 48.

A combination of Burghaus in view of Baar and Foulkes would not render the instant invention obvious. Although the cited art identifies many of the aspects found in amended claim 1, those skilled in the art would not have readily selected all of these aspects in combination. It would not be readily apparent to the skilled person in fashioning a closure to have gripping areas formed by a label covering which is an in-mold label, has a soft feel with a specified Shore hardness range of 35-80, a thickness of about 2-12 mils, has different color from the ceiling and comprises at least two separate labels. Based on these considerations, the presently claimed invention is not obvious in view of the art.

Based on the present amendment and comments, the Examiner is requested to reconsider the rejection and now allow the claims.

Respectfully submitted,



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